



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0507	Title:	Use of river beds
Primary Sponsor:	Story, Bob	Status:	As Amended

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund (01)	\$0	(\$7,828)	(\$8,231)	(\$8,237)
State Special Revenue (02)	\$15,000	\$15,000	\$15,000	\$15,000
Revenue:				
State Special Revenue (02)	\$0	\$7,828	\$8,213	\$8,237
Permanent Fund (09)	\$150,000	\$150,412	\$150,844	\$151,278
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$7,828</u>	<u>\$8,231</u>	<u>\$8,237</u>

Description of fiscal impact: SB 507 defines the methodology to assess full market value for all use of navigable rivers, including hydroelectric generation purposes. It also directs the Board of Land Commissioners to determine the location of rivers that are navigable for title purposes. Navigable river beds are considered land belonging to and benefiting the Common Schools Trust. SB 507 provides for an application fee and revenue for the Common Schools Permanent Fund.

FISCAL ANALYSIS

Assumptions:

1. The beds of navigable rivers have been determined by a court of law to be Common Schools trust land.
2. Section 2(2) "Full market value" means an amount calculated based upon the area of a footprint and the fair market value as determined by rule or statute which means the board has discretion in determining compensation for uses in navigable waters.
3. For fiscal note purposes, it is assumed that the department would process an average of 300 easement applications a year for an application fee of \$50 each. The application fees would be deposited into a new state special revenue account to fund the processing of the applications. The department would utilize approximately \$15,000 for contracted services each year to assist in processing the applications.

4. Easement revenue for the Common Schools (Permanent Fund) is based on the following:
 - a. The average appraised value per acre of an adjacent upland parcel is \$2,000. Therefore, the value of the navigable riverbed is 50% of the value of an adjacent upland acre or \$1,000/acre.
 - b. The area of an average easement is approximately 0.50 acres. (\$1,000 per acre x 0.50 acres = \$500).
 - c. 300 easements at \$500 per easement, would generate approximately \$150,000 for the Common Schools Permanent Fund each year.
5. The increase in the amount of revenue retained in the Common Schools Permanent Fund is assumed to be invested in the trust fund bond pool, which is forecasted to yield 5.478% in FY 2010 and 5.748% in FY 2011 through FY 2013.

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
Common Schools Permanent Revenue (including 5% retained interest)	\$150,000	\$150,412	\$150,844	\$151,278
Additional Interest:				
Interest 95% distributable to Guarantee Account	\$0	\$7,828	\$8,231	\$8,237
Interest 5% retained in the Permanent Fund	\$0	\$412	\$432	\$434

6. The additional interest revenue to the guarantee account is a state general fund savings of approximately \$8,000 per year for the cost of K-12 BASE aid. The guarantee account (20-9-622, MCA) funds K-12 BASE aid costs before the general fund.
7. For fiscal note purposes, Section 7 (1) and (5), is interpreted to mean that the board will adopt rules to determine which waters the department considers to be navigable for the purpose of claiming ownership of the beds of those waters as state lands. If the location of navigable rivers is contested an appeal would be filed by an adjacent landowner, user or the department in district court.

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Operating Expenses	\$15,000	\$15,000	\$15,000	\$15,000
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	(\$7,828)	(\$8,231)	(\$8,237)
State Special Revenue (02) Historic Riverbed Use Acct	\$15,000	\$15,000	\$15,000	\$15,000
TOTAL Expenditures	<u>\$15,000</u>	<u>\$7,172</u>	<u>\$6,769</u>	<u>\$6,763</u>

<u>Revenues:</u>				
State Special Revenue (02) Historic Riverbed Use Acct	\$15,000	\$15,000	\$15,000	\$15,000
State Special Revenue (02) Guarantee Acct	\$0	\$7,828	\$8,213	\$8,237
Permanent Fund (09) Common Schools	\$150,000	\$150,412	\$150,844	\$151,278
TOTAL Revenues	<u>\$165,000</u>	<u>\$173,240</u>	<u>\$174,057</u>	<u>\$174,515</u>

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	\$0	\$7,828	\$8,231	\$8,237
State Special Revenue (02) Historic Riverbed Use Acct	\$0	\$0	\$0	\$0
State Special Revenue (02) Guarantee Acct	\$0	\$7,828	\$8,213	\$8,237

Technical Notes:

1. New section 3, (3) (e) as amended, limits the discretion of the Land Board to deny an easement. The amended language states, “The authorization must be approved [by the board] if the requirements of this section are met. The amendment infringes on Article X, Section 4 of the Montana Constitution, which states, “It [the board] has the authority to direct, control, lease, exchange, and sell school lands and lands which have been or may be granted..., under such regulations and restrictions as may be provided by law.”
2. New section 3, (8) (c) for which the applicant can show an easement obtained from a state agency prior to the effective date of this act. DNRC is unaware of any instance where any agency, other than DNRC and the State Board of Land Commissioners, has issued an easement upon a navigable waterway. If another agency issued such an easement, it would not be effective. Only the Land Board can convey an easement in a state-owned waterway.
3. New section 6, (2) (b) (ii) allows the holder of a lease, license or easement to increase the size of the footprint if the increase is necessary to accomplish the purpose for which the lease, license or easement was granted, provided that the holder pay full market value. Section 6 conflicts with the constitutional authority of the State Board of Land Commissioners to determine when to convey interests in state school trust lands. The amendments require the applicant to acquire the appropriate state or federal permits, which consist of permits issued by the conservation districts and/or permits issued by the Army Corps of Engineers.

Sponsor's Initials

Date

Budget Director's Initials

Date